

STRUCTURAL BUILDING COMPONENTS MAGAZINE

January/February 2003

Publisher's Message



The Problem of Unintended Consequences by Kirk Grundahl

As we tackle legal and legislative issues in this issue of SBC Magazine, you will find two informative articles on the topic of mold ([Mold & Construction by Nathan Yost, M.D.](#) and [Our Legal Reality: Whose Mold Is It by Kent J. Pagel](#)). I'm guessing that you never expected you would need to

be exposed to as many facts and related information about mold as you have been recently. So why has it become such an issue? It really boils down to three main issues:

- Money: Injury from mold has no substantiated medical standard, making it fertile ground for plaintiff lawyers.
- Emotion: Emotion sells news and mold is emotional.
- No-Growth Agenda: Mold remediation, insurance and litigation can only increase construction prices and slow down the construction-related economy, making a number of environmental groups and "Smart Growth" activists very happy.

Who loses in this process? Construction affordability, our industry's businesses and all their employees, local economies where our employees live and purchase products, the government and its tax base, etc. When an issue is taken to an extreme, where it seems mold litigation may be headed, it can lead to very bad consequences (in some cases intended and in many cases unintended) that hurt regular people like all of us.

MORE THAN MOLD

As we begin a new year, mold isn't the only issue facing our industry that is resulting in far more losers than winners. When we think about unintended consequences, another issue that immediately comes to mind is the softwood lumber dispute with Canada and the current countervailing and antidumping tariffs that are in place. In simple terms this tariff has changed the economic structure of our industry. It places U.S. component manufacturers at a competitive disadvantage due to the fact that this tariff was put in place to restrict supply of lumber coming into the U.S. from Canada. With a 27.2 percent duty on lumber, it is clear that as much high value lumber as possible will be coming to the U.S. market from Canada, just to be able to afford the duty. This creates a surplus market in Canada for products that cannot be affordably shipped to the U.S. market, creating two-tiered pricing conditions—a lower price in Canada for the identical stick of lumber. Add to this the fact that the anti-dumping rules encourage the Canadian lumber producers to keep producing so that they have lower unit costs, thus lowering their anti-dumping percentage, and it is clear that supply of lumber in Canada can easily exceed demand, reducing the lumber prices in the Canadian market even further. The only thing saving

our industry from significant two-tiered pricing is the incredibly low prices for lumber that we are seeing now. Even with this condition, two-tiered pricing and the resulting Canadian competitive advantage exist.

This has led our industry to make the following points regarding the lumber dispute:

- Ideally we would like to see the duty eliminated and a system put in place so that the lumber we use to manufacture our products is not subject to two-tiered pricing. This would allow our industry to have a level playing field with respect to our lumber costs.
- If the U.S. lumber industry needs a duty to survive as an industry, the unintended consequence of Canadians bypassing the duty by manufacturing wood structural components needs to be recognized. This naturally leads to a competitive advantage the Canadians will have over the U.S. wood structural components industry due to this duty bypass. No one can fault Canadian companies for exploiting the advantage that has been given to them. However, placing a duty of some magnitude on Canadian companies that manufacture wood structural components should be considered in order to protect the interests of U.S. manufacturers of this value added product.
- The irony of the lumber duty is that it hurts the competitiveness of the very companies that sought the imposition of the duty—our U.S. lumber suppliers. Fundamentally this tariff provides an incentive to produce more structural wood components in Canada and ship them into the U.S. duty free, decreasing the demand for lumber by U.S. component manufacturers, and thereby reducing the need for U.S. companies to buy more lumber from U.S. lumber suppliers.
- We do not desire that our lumber suppliers go out of business. That is bad business for us as well. At the same time it is very bad business for our suppliers to facilitate public policy that puts their customers at a competitive disadvantage.

ACTIONS TAKEN

So what have we been doing to address our industry's competitive disadvantage due to the fact that our industry economic model has changed?

- We have aggressively educated Congress over the last two years on our continuing plight.
- Our voice was heard and this led to the Senate Finance Committee requesting the following action:

In order to gain a better understanding of the industry the Committee requests, pursuant to section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (the Commission) is conducting a study to gather information on competitive conditions in the US industry. In its report, the Committee requests that the Commission provide, to the extent possible, the following:

- An overview of the North American market for prefabricated wood structural building components, including a description of the principal structural wood components in production and trade, and their non-wood substitutes.
- A description of the U.S. industry, and the industry in the principal countries supplying the U.S. market, including recent trends in production, capacity, employment, and

consumption.

- Trade patterns (both imports and exports), and competitive conditions affecting U.S. production and trade.
- Views of industry and other interested parties on future developments in the supply of and the demand for U.S. wood structural building components, including the effect of imports and non-wood substitutes on U.S. production.
- A comparison of the strengths and weaknesses of the U.S. industry and major U.S. suppliers in such areas as raw material supply, technological capabilities, plant and equipment modernization, and present capacity and potential capacity expansion.

The scope of the investigation will cover structural building components, including, but not limited to, beams and arches, roof and floor trusses, I-joists, prefabricated partitions and panels (including headers) for buildings and other structural wood members, and should cover the period 1997-2002 to the extent possible.

One reason that we requested this International Trade Commission Section 332 investigation was to have a stronger voice on behalf of our industry. From our perspective, this study from a respected independent governmental agency would allow us to show the Bush Administration, Senators and Congresspeople that our industry is a significant market segment of the U.S. economy and that legislative and trade actions can hurt this market segment and cause a significant loss of jobs and commerce, in turn hurting both national and local economies.

OPPORTUNITIES EMERGE

As our positions as an industry have become better known, this has opened up opportunities to join forces with other value added industries that have some of the same fundamental concerns that we do. Per a WTCA Board motion, we have been very actively involved in establishing and working to create a broader voice called the U.S. Value Added Wood Products Alliance. Its governing principles are:

1. We must recognize there are real differences (political, economic, and geographic) between the two countries and that these differences must be recognized as a solution is formulated.
2. The longer the trade dispute goes on with tariffs in place to manage trade, the more likely it is that market-based business solutions will be developed whose sole purpose will be to bypass these tariffs, thereby creating new competitive advantages and disadvantages (winners and losers) within both the U.S. and Canadian markets.
3. These uncertain conditions do not allow businesses to create a long-term sustainable and strategic business model that serves the best interests of their customers, employees and shareholders.
4. Any long-term solution must necessarily take into account all interests and issues fairly. It is also imperative that the solution be enduring.
5. All solutions should be formulated in the overall best interests of both countries, so that no

region or country (e.g. Europe, Russia, etc.) outside the agreement has an unfair access and competitive advantage in either market.

6. Any single softwood lumber product, producer or specific geographical region in either country should not be placed at a competitive disadvantage because of any agreement that is implemented.

7. The majority of the effected stakeholder groups must support and abide by any solution.

8. Any solution shall account for and encourage the long-term stewardship of both public and private lands in both countries.

WHAT'S NEXT?

At the time that this article was being written the U.S. Value Added Wood Products Alliance was in the process of creating its own proposal for a solution to this lumber dispute. The goal of all the work we have undertaken is to ensure that the value added segment of the market has as strong and clear a voice in this process as possible.

Will our value added industry be included in any negotiated solution of the lumber dispute with Canada? This is anyone's guess at this point and any outcome is controlled by the following principles:

- The governments on both sides of the border have to account for a wide array of disparate and vested interests in the negotiation process.
- The Coalition for Fair Lumber Imports, the U.S. Government and the Canadian Government must agree with any action that is taken.
- The legal requirements that surround this negotiation are very complex and can limit what we as a group can do as an agreement is attempted to be hammered out.

Without our having worked so hard on this issue, the following would never have happened:

- We would never have met with the Coalition for Fair Lumber Imports to discuss the impact of their actions on their customers.
- Senators Lott, Baucus and Grassley would never have been advocates of the ITC 332 market evaluation that will provide us with fundamental market information that we need and put our industry on the "we should consider them" map.
- We would never have provided our industry's point of view before three very knowledgeable International Trade Commission Commissioners.
- The U.S. Value Added Wood Products Alliance would never have come into existence.
- We would never have had the opportunity to make a proposal to Secretary Evans and have our voice heard by the Department of Commerce on this issue.
- The proposal we will make would never have taken into account trusses and truss kits (HTSUS 4418.90).
- And, most importantly, our industry would never have had any form of voice at all and as such would have no possibility to even be considered as public policy is made.

It is frustrating not to be able to immediately fix something that has the kind of significant common sense flaws that the tariffs on both of our wood and steel raw materials have. But that is the reality, and the fact of the matter is we have undertaken work that we can control and have done our best to be heard by those involved in this process and in U.S. policy-making on these issues.

Even though we may not achieve any action that will help our industry directly, because we were involved we have presented a strong voice. Our industry is engaged in the policy-making process, and if nothing else we will be better able to guide our industry membership on the best way to protect and advance their business interests because we are more likely to know early on what is going to happen to our industry and why.

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